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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TAYLOR SOMMER, individually;
TAYLOR SOMMER, as the Administrator of
the ESTATE OF REINER SHAWN
SOMMER, deceased,

Plaintiff,

vs.

CITY OF LAS VEGAS, NEVADA a political
subdivision of the State of Nevada; LAS
VEGAS METROPOLITAN POLICE
DEPARTMENT, a political subdivision of
the State of Nevada; KEVIN MCMAHILL,
individually and as a policy maker and Sheriff
of LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; SERGEANT GERALD
BAGAPORO, individually and in his official
capacity; SERGEANT JEFFREY BLUM,
individually and in his official capacity;
OFFICER ANDREW GARCIA, individually
and in his official capacity; OFFICER
JOSEPH ORTEGA, individually and in his
official capacity; DOE LAS VEGAS
METROPOLITAN POLICE DEPARTMENT
SUPERVISORS I through X, inclusive and
ROE LAS VEGAS METROPOLITAN
POLICE DEPARTMENT OFFICERS XII
through XX, inclusive,

Defendants.

Case Number:
2:23-cv-01682

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES
(SECOND REQUEST)**

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Plaintiff Taylor Sommer, individually and as the Administrator of the Estate of Reiner Shawn Sommer, deceased (“Plaintiffs”), and Defendants Las Vegas Metropolitan Police Department (“LVMPD”), Sheriff Kevin McMahon, Sgt. Bagaporo, Sgt. Blum, Ofc. Garcia and Ofc. Ortega (“LVMPD Defendants”), by and through the undersigned counsel, and hereby present this stipulation pursuant to LR 26-3, requesting the court extend the close of discovery by approximately sixty (60) days. This is the parties’ second request for an extension of the current discovery deadlines.

I. INTRODUCTION

1. On January 2, 2024, the parties submitted a Proposed Joint Discovery Plan and Scheduling Order which requested an extended discovery period of 270 days [ECF #16].

2. On January 3, 2024, the Court entered an Order denying the Proposed Joint Discovery Plan and Scheduling Order [ECF #17]. The Court’s Order rejected the parties request for 270-days and set the following deadlines:

- Initial Disclosures: January 10, 2024
- Add/Amend Pleadings: February 6, 2024
- Initial Experts: March 7, 2024
- Rebuttal Experts: April 8, 2024
- Discovery Cut-off: May 6, 2024

3. On February 8, 2024, the parties submitted a Stipulation to Extend the Discovery Deadlines and to Allow Additional Depositions [ECF #19].

4. On February 9, 2024, the Court denied the Stipulation [ECF #20].

5. On February 12, 2024, the parties submitted a Stipulation to Extend Discovery Deadlines and to Allow Additional Depositions [ECF #21].

6. On February 13, 2024, the Court granted the Stipulation [ECF #22].

7. The Order provided for the following deadlines:

- Initial Experts: June 5, 2024
- Rebuttal Experts: July 8, 2024

- Discovery Cut-Off August 5, 2024
- Dispositive Motions: September 3, 2024
- Joint Pretrial Order: October 3, 2024

In the extension the Court stated it “is not inclined to further extend discovery deadlines” and that “the parties must diligently conduct discovery.” (ECF No. 22 at 2:1-3.)

Since the inception of discovery, the parties have diligently and aggressively conducted discovery. However, for reasons stated below, the parties jointly request a relatively brief additional period of time to complete discovery. As set forth herein, the parties have not been reasonably able to complete all discovery despite significant effort and diligence. Moreover, the parties have been unable to set expert depositions before the August 5, 2024 discovery cut-off date, in large part, to the availability of the experts. Therefore, the parties are requesting a 60-day discovery extension to complete all necessary discovery and depositions.

II. DISCOVERY COMPLETED

To date, the parties have conducted the following discovery:

1. Prior to the filing of this action on October 16, 2023, the Estate of Reiner Sommer subpoenaed documents from LVMPD and various health care providers.
2. Defendants served their initial disclosures on January 5, 2024, including a large number of photographs and body cam videos.
3. Plaintiffs served their initial disclosures on January 9, 2024, including voluminous medical records.
4. Plaintiffs served Defendants with their first set of written discovery on January 6, 2024, and Defendants have responded.
5. Defendants served Plaintiffs with their first set of written discovery on January 5, 2024, and Plaintiffs have responded.
6. Plaintiffs served Defendants with a second set of requests for production on April 23, 2024, and Defendants have responded.

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1 7. Plaintiffs served Defendants with a third set of requests for production on
2 May 9, 2024, and Defendants have responded.

3 8. Plaintiffs served Defendants with a second set of interrogatories on July 1,
4 2024, to which Defendants are required to respond.

5 9. Plaintiffs have retained and disclosed three expert witnesses.

6 10. Defendants have retained and disclosed two expert witnesses.

7 11. Both parties are prepared to serve rebuttal expert reports by the July 5, 2024
8 deadline.

9 12. Both parties have served several supplements to their Initial Rule 26
10 Disclosures.

11 13. Plaintiffs have taken the depositions of: (1) all four defendant police officers,
12 (2) three paramedics, (3) two Walgreen employees, (4) coroner Ben Murie, M.D., and (5)
13 have noticed LVMPD's Rule 30(b)(6) deposition for July 9, 2024.

14 14. Defendants have taken the deposition of Plaintiff Taylor Sommer.

15 15. Defendants have subpoenaed, received, and produced records regarding the
16 Decedent's medical history and criminal history.

17 16. Plaintiffs have subpoenaed documents and records from the San Diego
18 County Sheriff's Office. A response to said subpoena is currently due prior to the close of
19 discovery.

20 17. Plaintiffs have subpoenaed documents and other materials, including tissue
21 samples, from the Clark County Coroner's Office. A response to said subpoena is currently
22 due prior to the close of discovery. However, the nature of the requested materials
23 necessitates significantly more time and attention than a normal document subpoena might
24 require.

25 18. Plaintiffs have subpoenaed documents and other materials, including security
26 videos, from Walgreens. A deposition related to said subpoena is expected to take place
27 prior to the current close of discovery.

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1 19. Plaintiffs have recently located a percipient witness, Jennifer Aguilar, who
2 was formerly employed as a paramedic in Las Vegas. Since the date of the Plaintiff's death,
3 Ms. Aguilar moved to Florida. Ms. Aguilar was difficult to locate..

4 20. The parties are actively working to set expert depositions.

5 **III. DESCRIPTION OF DISCOVERY THAT REMAINS TO BE COMPLETED**

6 1. Defendants need to serve their experts' rebuttal reports. The reports are
7 expected to be ready to be served by the July 8, 2024 deadline.

8 2. To the extent necessary, Plaintiffs need to serve their experts' rebuttal
9 reports. The reports are expected to be ready to be served by the July 8, 2024 deadline.

10 3. Plaintiffs are taking the deposition of LVMPD's Rule 30(b)(6) witness on
11 July 9, 2024.

12 4. Plaintiffs are awaiting a response to the subpoena that has been issued to the
13 San Diego County Sheriff's Office.

14 5. Plaintiffs are awaiting a response to a subpoena that has been issued to the
15 Clark County Coroner's Office. Among the information that has been requested are tissue
16 samples. As set forth above, Dr. Murie recently advised that these tissue samples have not
17 yet been plated. This may delay the Coroner's ability to timely respond to the subpoena.
18 Once the Coroner's Office has responded, the Plaintiffs must utilize the appropriate methods
19 and chain of custody procedures to allow their medical expert to examine these tissue
20 samples and render his medical opinions.

21 6. Plaintiffs are awaiting a response to a subpoena that has been issued to
22 Walgreens and working to schedule a deposition of the person with knowledge regarding the
23 pertinent information.

24 7. Plaintiffs would like to take the out-of-state deposition of Jennifer Aguilar.
25 This has not been possible to date because Ms. Aguilar was only recently located in Florida.

26 8. Plaintiffs need to take the deposition of Defendants' expert witnesses
27 (working on dates).

28

1 9. Defendants need to take the deposition of Plaintiffs' expert witnesses
2 (working on dates).

3 **IV. REASONS WHY DISCOVERY HAS NOT BEEN COMPLETED**

4 As demonstrated above, the parties have worked diligently and aggressively at
5 completing discovery. Further, the parties have a strong working relationship and have been
6 able to work through numerous potential discovery disputes without seeking court
7 intervention. As a result, discovery in this case has moved smoothly.

8 With the foregoing said, the parties seek additional time to complete some discovery
9 that could not reasonably be completed to date. Plaintiffs have subpoenaed documents
10 related to the Plaintiff's prior incarceration and medical condition from the San Diego
11 County Sheriff's Office. Although a response is due prior to the close of discovery, it is not
12 known whether the Sheriff's Office will meet the deadline. Once the response is received,
13 Plaintiffs must disclose the pertinent information.

14 Plaintiffs have also subpoenaed materials from the Clark County Coroner's Office.
15 Again, a response is due prior to the close of discovery; however, among the requested
16 materials are tissue samples. During the course of Dr. Murie's deposition in Utah, the parties
17 were advised that these samples have not yet been plated. This will likely result in the need
18 for additional time on the part of both the Coroner's Office and the parties. Plaintiffs'
19 medical expert (and perhaps the Defendant's medical expert) need to examine these tissue
20 samples and render opinions. Chain of custody and medical protocols must be followed.
21 The parties were not aware of the existence or potential importance of these tissue samples
22 until the medical experts provided their reports.

23 Plaintiffs also seek to complete additional depositions of Walgreens and Ms. Aguilar.
24 Walgreens is not a party to this case. Plaintiffs have been attempted to amicably schedule
25 the deposition of a Walgreens 30(b)(6) witness with its corporate counsel for some time.
26 Unfortunately, it has been difficult. Plaintiffs also only recently located Ms. Aguilar, who
27 moved to Florida. Plaintiffs believe that this percipient witness may have additional
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1 valuable information. However, because she was difficult to locate and because she now
2 resides in Florida, Plaintiffs have not been able to complete this deposition to date.

3 In addition, due to scheduling issues it has proven difficult for the parties to set
4 expert depositions within the current deadlines. This is due to:

- 5 • Defendants just completed a ten day (June 17-26, 2024) jury trial in *Estate of*
6 *Childress, et al. v. LVMPD, et al.*, 2:20-cv-01589-APG-NJK
- 7 • Defendants are starting a two-week jury trial (expect to last July 29-August 12,
8 2024). *See Estate of Gomez, et al. v. LVMPD, et al.*, 2:20-cv-01589-RFB-BNW.
- 9 • Defendants' police practices expert is unavailable during the month of July due
10 to prior scheduled commitments.
- 11 • Plaintiffs' experts have limited availability during the month of July and none of
12 the dates match available dates for defense counsel.

13 The parties anticipate that expert depositions can be completed by the end of August
14 2024. However, the parties are requesting an additional thirty-days so deposition transcripts
15 can be obtained prior to the filing of dispositive motions. The parties further believe that
16 they can wrap up all other required discovery within the requested time frame.

17 **V. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING**
18 **DISCOVERY**

- 19 1. **Discovery Cut-Off: Monday, August 5, 2024 to October 7, 2024**
- 20 2. **Dispositive motions: Tuesday, September 3, 2024 to November 3, 2024**
- 21 3. **Joint Pretrial Order: Thursday, October 3, 2024 to December 3, 2024 (30**
22 **days after the resolution of dispositive motions, or further Court order)**

23 The parties reiterate that this request is not due to lack of diligence or failure to plan.
24 Rather, in light of defense counsel's two trials in June and July and the parties' experts'
25 schedules, it has been problematic to find expert deposition dates prior to the discovery cut-
26 off. Additional matters have been generally out of the control of the parties. As set forth
27 above, most of the remaining required discovery is currently scheduled to be completed.
28 However, the responses of certain parties are not within the control of the parties. As for the

Clark County Coroner's Office, the parties were not aware of the existence of need for the tissue samples until their medical experts provided their reports. Nor were they aware that the tissue samples had not yet been plated. Although a response from the Coroner's Office is presently due by the current close of discovery, even if the Coroner timely responses, it is unlikely that sufficient time will exist for the parties' medical experts to conduct their examination and testing, particularly given the chain of custody and medical protocols at issue. Ideally, the medical experts will have the opportunity to examine the tissue samples and render additional opinions before they are deposed.

Dated this 3rd day of July, 2024.

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LTD.

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IT IS SO ORDERED:

**NO FURTHER EXTENSIONS
WILL BE GRANTED.**


UNITED STATES MAGISTRATE JUDGE

DATED: July 8, 2024

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